



FEDERAL EMPLOYMENT OF PEOPLE WITH DISABILITIES

(RECRUITMENT & HIRING/RESOURCES/REASONABLE ACCOMMODATION)

LAWS AND EXECUTIVE ORDERS

This section describes laws and Executive Orders that support and encourage the employment, retention, and advancement of people with disabilities.

Laws:

1. **Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 791)**, prohibits discrimination on the basis of disability in Federal employment and requires the Federal Government to engage in affirmative action for people with disabilities.
 - Requires Federal employers not to discriminate against qualified job applicants or employees with disabilities. Persons with disabilities should be employed in all grade levels and occupational series commensurate with their qualifications. Federal employers should ensure that their policies do not unnecessarily exclude or limit persons with disabilities because of a job's structure or because of architectural, transportation, communication, procedural, or attitudinal barriers.
 - Requires employers to provide "Reasonable Accommodations" to applicants and employees with disabilities unless doing so would cause undue hardship to the employers. Such accommodations may involve, for example, restructuring the job, reassignment, modifying work schedules, adjusting or modifying examinations, providing readers or interpreters, and acquiring or modifying equipment and/or facilities (including the use of adaptive technology such as voice recognition software).

- Prohibits selection criteria and standards that tend to screen out people with disabilities, unless such procedures have been determined through a job analysis to be job related and consistent with business necessity, and an appropriate individualized assessment indicates that the job applicant cannot perform the essential functions of the job, with or without reasonable accommodation.
- Requires Federal agencies to develop affirmative action programs for hiring, placement, and advancement of persons with disabilities. Affirmative action must be an integral part of ongoing agency personnel management programs.

2. **Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794d)**, requires Federal agencies to procure, use, maintain, and develop accessible electronic and information technology, unless doing so imposes an undue burden. National security systems are exempt. Federal agencies were required to comply with standards promulgated by the Architectural and Transportation Barriers Compliance Board (the Access board) that took effect on August 7, 2000. Agencies must biannual their compliance with Section 508 and must report the results of these self-evaluations to the Attorney General.
3. **The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212)**. In order to promote the policy of "The maximum of employment and job advancement opportunities within the Federal Government for disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era who are qualified for such employment and advancement, "this act placed into law the provisions of the executive order that authorized the noncompetitive appointment of Vietnam era veterans under Veterans' Readjustment Appointment (VRA). The act also ensures that all veterans are considered for employment under merit system rules and requires a separate affirmative action plan for the hiring, placement, and advancement of disabled veterans. Please note, however, that this law does not provide any preferences to disabled veterans or to veterans of the Vietnam era.
4. **The Civil Service Reform Act of 1978** requires "fair and equitable" treatment in all aspects personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or disabling condition.
5. **The Americans with Disabilities ACT (ADA) of 1990** covers employers in the private sector and State and local governments. The substantive employment standards of the ADA, which are applicable to the Federal Government through the Rehabilitation Act, can be found at 42 U.S.C. Section 12111. et seq. and 42 U.S.C. Sections 12202-204 and 12210.

6. **The Veterans Education and Employment Program Amendments of 1991** require expanded job opportunities for veterans and disabled veterans through the Veterans Readjustment Appointment (VRA) Authority, 38 U.S.C. Section 4314.
7. **The Architectural Barriers Act**, enforced by the Access Board, Requires that buildings and facilities be accessible to people with disabilities if they were constructed or altered by or on behalf of the Federal Government or with certain Federal funds, or leased for occupancy by Federal agencies, after 1969. When individuals with disabilities are unable to use a building because there are not accessible parking spaces, no curb ramps, no ramps at the entrance, no accessible rest rooms, no accessible drinking fountain, no raised lettering on signs, or other barriers exist, they may file a complaint with Access Board.
8. **The Pregnancy Discrimination Act amended Title VII of the Civil Rights Act of 1964** to prohibit sex discrimination on the basis of pregnancy, childbirth, or related medical conditions. This amendment requires that employers treat pregnancy and related conditions in the same manner as any other short-term disability.
9. **Title 5, United States Code, Sections 3312 and 3318** require that any disqualification, non-selection, or passing over of a veterans' preference eligible applicant for medical reasons be approved by the Office of Personnel Management before the position can be filled. This includes an agency medical disqualification of a 30 percent or more disabled veteran for assignment to another position in a reduction in force. A non-preference eligible who is disqualified for medical reasons also has the right to a higher level review of the determination in the agency as stated in OPM regulation 5 C.F.R., Section 339.306.
10. **The Family and Medical Leave Act of 1993 (5 U.S.C. Section 6382)** requires Federal agencies and departments to allow employees to take up to twelve weeks of leave without pay, provided that the employee or a member of his or her immediate family (spouse, son, daughter, or parent) has a serious health condition and the employee meets several other statutory criteria. The leave may be taken intermittently or on a reduced leave schedule when medically to transfer temporarily to another position under certain circumstances.

Executive Orders:

1. **Executive Order 13078, Increasing Employment of Adults with Disabilities**, established the National Task Force on Employment of Adults with Disabilities (now referred to as the Presidential Task Force). The purpose of the Task Force is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate as close as possible to the general adult population. The Executive Order included actions to ensure that the Federal Government is a model employer of adults with disabilities.

2. **Executive Order 13145, To Prohibit Discrimination in Federal Employment Based on Genetic Information**, prohibits discrimination in Federal employment against employees based on protected genetic information, or information about a request for or the receipt of genetic services. Executive departments and agencies are responsible for carrying out the provisions of this order to the extent permitted by law and consistent with their statutory and regulatory authorities, and their enforcement mechanisms. The equal Employment Opportunity Commission is responsible for coordinating Federal policy concerning this Executive Order.
3. **Executive Order 13163, Increasing the Opportunity for Individuals with Disabilities to be Employed in the Federal Government**, promotes an increase in the opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government. Agencies shall use available hiring authorities; expand outreach efforts; and increase their efforts accommodate individuals with disabilities. This website incorporates OPM's guidance on the provisions of this Executive Order.
4. **Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation**, requires each Federal agency to establish effective written procedures to facilitate the provision of reasonable accommodation. Agencies shall submit their plans, and any modifications, to the Equal Employment Opportunity Commission.
5. **Executive Order 13217, Community-Based alternatives for Individuals with Disabilities**, promotes community based alternatives for individuals with disabilities, including helping ensure that all Americans have the opportunity to live close to their families and friends, to live more independently, to engage in productive employment and to participate in community life.

Employment Discrimination:

What practices and activities may be challenged as employment discrimination?

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms and conditions of employment. Failure to provide reasonable accommodation can also be a form of employment discrimination.

What is the EEO complaint process?

The EEO complain process is legal process designed to resolve allegations of employment discrimination and retaliation. Section 504 of the Rehabilitation Act of 1973 is one of the civil rights laws enforced through the EEO complaint process. The Federal sector EEO complaint process has three parts:

- The pre-complaint counseling process;
- The formal complaint process; and
- The appeal process.

The Equal Employment Opportunity Commission (EEOC) is an independent Federal agency that oversees the EEO complaint process and hears appeals of the Department's Final Agency Decisions (FADs) in discrimination complaints. EEOC regulations at 29 C.F.R. 1614 govern the Federal sector EEO complaint process.

What should I do if I think I have been discriminated against because of my disability?

If you believe that you have been discriminated against because of your disability, you may contact your operating unit EEO Officer or an EEO Counselor to arrange to receive EEO counseling.

To preserve your right to file a formal EEO complaint, you must make such contact within 45 calendar days of the date the action occurred. The EEO Counselor will provide you with an explanation of your rights and responsibilities in the EEO process, including the option to elect Alternative Dispute Resolution. The EEO Counselor will attempt to assist the parties in reaching resolution, but will not develop or advocate specific terms of the agreement. If these efforts are unsuccessful, the Counselor will notify you of the procedure for filing a formal complaint on the matter.

Please be advised: The EEO complaint process can correct management actions that are proven to be unlawful under EEO laws. It is not, however, a substitute for trying to resolve normal work issues with supervisors, other managers, and co-workers. It cannot correct management actions solely because they are unfair.

What is Alternative Dispute Resolution (ADR)?

Agencies now offer employees alleging discrimination the option of the EEO counseling process or the alternative dispute resolution process. Most Federal agencies use mediation as the ADR process.

The mediator is neutral and helps the parties to a discrimination dispute identify the important issues and work out a solution that is agreeable to both sides. The objective of the ADR process is to attempt to resolve allegations of workplace discrimination at the earliest possible stage of the EEO process. If the complaint is resolved through mediation or some other form of ADR, a settlement agreement will set out the terms of the agreement. You are allowed to have a representative during this process if you choose. Contact the representative during this process if you choose. Contact the relevant agency for specific information on its ADR practices.